

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2985 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DAHYYALAL N VORA

Versus

SUDHIR MANKAD IAS

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Appearance:

MR PV HATHI for Petitioner

MR Kamal Mehta AGP for Respondent No. 1

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CORAM :

MR.JUSTICE S.D.PANDIT

Date of decision: 09/08/96

ORAL JUDGEMENT

Dr.Dahyalal N.Vora has preferred the present petition under article 226 of the Constitution of India against the order passed by the Gujarat Civil Services

Tribunal in Appeal No. 168/81 on 13.9.83. The petitioner was working as a Professor in HH B Kotak Institute of Science at Rajkot. One Shri Satyanarayan was his colleague and said Satyanarayan had gone on tour along with students as part of their educational programme in South India. Thereafter he had presented a bill to his office for reimbursement of certain claims. Present petitioner gave an application directly to the Vigilance Commission on 20.5.79 along with the xerox copy of the bill presented by Prof. Satyanarayan by alleging that said bill was false and Prof. Satyanarayan had misappropriated the amount of the said bill. After receipt of the said complaint, the Vigilance Commission had investigated the said complaint. During the investigation the Vigilance Commission had also summoned the present petitioner but ultimately it was found that the complaint lodged by the petitioner was not bonafide and true one. The Vigilance Commission accordingly submitted his report to the Director of Education. On receiving the said report, present petitioner was issued a show cause notice by the Director of Education calling upon him to explain the following charges:

1. That the appellant had no right to make such a complaint to the Vigilance Commission as it did not form part of his duty; and
2. That on the basis of hearing of the complaint of Shri M.P.Patel not belonging to his department, he made a complaint to the Vigilance Commission, unauthorisedly and acted in a manner unbecoming of a Government servant.

The petitioner gave a reply to the charges on 18.4.80 and after considering this reply as well as the report and papers of inquiry, submitted by the Vigilance Commission, Director of Education passed an order awarding punishment of censure and ordered that necessary entry be made in his service record of the present petitioner.

2. Being aggrieved by the said decision of the Director of Education, the present petitioner had preferred an appeal before the Gujarat Civil Services Tribunal at Gandhinagar being appeal No. 168/81 and the Tribunal decided the said appeal on 13.9.83 by partly allowing the same to the extent of deleting the order of Director of Education to enter the said punishment of censure in his service record and further observing that said punishment of censure should not be considered for any other purposes during the service of the present

petitioner.

3. It is vehemently urged by Mr P.V.Hathi L.A. for the petitioner before me that no departmental inquiry was held against the petitioner and without holding any departmental inquiry, present petitioner has been punished and penalty has been awarded to him and therefore, the Tribunal ought not to have confirmed the said punishment. The punishment of censure is a minor penalty and if the provisions of the Civil Services Rules are considered then it would be quite clear that in case of minor penalty of censure it is not at all necessary to hold any departmental inquiry before awarding punishment to a civil servant. Therefore, in the circumstances, the contentions raised by the petitioner that the punishment awarded to him is bad in law on account of not holding of departmental inquiry, could not be accepted.

4. It is further urged before me by the learned advocate for the petitioner that the Tribunal has held that the act of the present petitioner making complaint to the Vigilance Commissioner was not illegal or improper and inspite of recording of the said finding the Tribunal has confirmed the punishment and penalty and therefore, the same deserves to be interfered with by exercising the extra ordinary powers under article 227 of the Constitution of India.

5. It is not in dispute that the present petitioner had made a grievance against this colleague Prof. Satyanarayan alleging that he had prepared false TA bill and had committed misappropriation of the amounts covered by the said TA bill. It is also not in dispute that the complaint made by the present petitioner was inquired into by the Vigilance Commission and the Vigilance Commission had found that said complaint was baseless and without any material to make such a complaint. When the petitioner was working as Professor in the Institute and when he was making grievance against his own colleague without informing his superiors directly to the other public Authority then that conduct of public servant could not be said to be befitting a public servant. When he was in Government service he must follow due process and procedure . Whenever he wants to make any grievance whether it pertains to criminal offence or not said complaint/grievance must go through his superior. The Tribunal has also found that present petitioner has taken out the document from the office of the Institute and submitted the documents to the Vigilance Commission without any permission to do so from his superiors. Now that conduct of the petitioner

also does not befit a public servant. Therefore, in view of the finding of fact recorded by the Director of Education as well as by the Services Tribunal, punishment of censure awarded to the present petitioner could not be said to be illegal or unjust so as to interfere with the same by exercising the discretionary power under article 227 of the Constitution of India. In the circumstances, present petition deserves to be dismissed. Accordingly the petition is dismissed. Rule discharged. No order as to costs.

(S.D.Pandit.J)